



SCHOOL BUS, INC.

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Steven C. Hey, President
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DEPARTMENT OF EDUCATION "POINT OF CONTACT" **SEPTEMBER NEWSLETTER**

ADDITIONAL SCHOOL BUS DRIVER TRAINING

We are offering a DDN School Bus Driver In-Service broadcasting from Clark on September 28th and October 5th from 6:00pm to 10:00pm CST. Please keep in mind this training is intended for any drivers who haven't received the required training so far this year. The following sites are already scheduled for broadcasting: September 28th Isabel – HS, Sisseton – HS, Flandreau - MS and on October 5th Parker - Old HS, Jones Co. – HS, Brookings – MS. We still have seven sites available to broadcast to on both nights, so if your district is interested in hosting a session, please call or email any of the following persons: Dan Duenwald in Clark, dand@itctel.com, ph: 605-532-3836 or cell: 605-233-0010. Donna Wik in Webster, harlowsd@itctel.com, ph: 605-345-4023. Carol Uecker in Pierre with the Dept. of Education, Carol.Uecker@state.sd.us, ph: 605-773-4771.

NON-CONFORMING **15-PASSENGER VAN SAFETY PROVISIONS INCLUDED IN SAFETEA-LU**

Several provisions advocated for by NSTA were included in the final SAFETEA-Lu bill passed on July 30. Many thanks to our chief sponsors, Senator Olympia Snowe, Republican Senator from Maine and Congressman Mark Udall, Democratic Congressman from Colorado.

Because 15 passenger vans have such a high rollover rate (3 times the average), the final bill requires the Secretary of Transportation to test 15 passenger vans as part of the rollover resistance program of NHTSA's new car assessment program. 15 passenger van is defined as a vehicle seating 10-14 passengers, not including the driver.

The final bill also includes a new provision relating to prohibitions on purchase, rental, or lease of nonconforming 15-passenger vans for school use. The new bill states that a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15 passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph."

What this provision does is now puts the onus on the school or school district instead of the dealer, for purchasing or leasing 15-passenger vans. It will put schools and school districts on notice that they should not be purchasing these vans outright.

In addition, penalties for violating the provision are increased in the legislation. The maximum civil penalty is increased to \$10,000 in the case of the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of the law. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty for a related series of violations is \$15,000,000.

Together, these passenger van safety provisions will go a long way towards NSTA's goal of ensuring that no students are forced to be transported in dangerous 15 passenger vans to and from school or to school-related events, and forcing schools to make the only safe choice, the yellow school bus.

Questions

Q1. I operate some station wagons and minivans for special needs students. Can I put those drivers in my random drug testing pool?

A1. If the drivers of your smaller vehicles have CDLs, the answer is a simple yes. If they don't have CDLs, the answer is more complicated. Whether or not you can subject non-CDL drivers to random drug testing is a matter of state law. Unless your state has specific requirements for drivers of all school vehicles, your state labor laws will dictate when you can require drug tests of employees who are not covered under federal regulations. Most states allow all employers to do pre-employment and reasonable suspicion testing, but are more restrictive regarding random testing. Check with your state labor department (or your labor attorney) to see if you are allowed to test "safety-sensitive" employees.

Even if you find that you can legally subject non-CDL drivers to random drug testing, the answer to your question is no. You cannot mix CDL and non-CDL drivers in a random testing pool.

Drivers that are tested under the federal regulations must be in an exclusive pool so that you can meet the required minimum test numbers of those drivers.

In addition, the forms that are used for DOT testing cannot be used for any tests outside the DOT regulations. You can do the same testing in the same way for your non-CDL drivers, but you'll need to set up a separate pool for them and use different forms.

Q2. My driver was at fault in a crash where a vehicle had to be towed. The police officer told him that he would receive a ticket in the mail. Should I do drug and alcohol tests before he gets the ticket?

A2. We checked with FMCSA for the answer to your question, and they confirmed that the answer is no. You cannot test a driver until you have the actual citation in hand, no matter what the officer promises—or threatens.

If the citation arrives more than 8 hours after the crash, it's too late to administer an alcohol test; if it arrives more than 32 hours after the crash, it's too late for a drug test.

Be sure to document in the driver's file the date and time the citation arrived as your reason for not administering the tests.

Q3. If the school calls to tell me that a parent smelled alcohol on a driver, can I send the driver for an alcohol test?

A3. Not unless you, as a trained supervisor, have specific contemporaneous evidence that the driver may be impaired. That means you must observe first hand something in the driver's behavior, speech, appearance or odor that makes you suspect alcohol use. You can't use a third party's accusation or observation as a reason to require testing.

Q4. Who can send a driver for reasonable cause drug or alcohol testing?

A4. Only a trained supervisor can refer a driver for testing. Employers must ensure that all persons who are designated to supervise drivers undergo one hour of training on drug use and one hour of training on alcohol abuse. The regulations do not define "supervise," however, so it is up to the employer to determine that. You probably want to make sure that at least one trained person is in a position to observe drivers regularly since referrals for testing can be made only by a supervisor who has personally witnessed the suspicious behavior.

Q5. I'm a trained supervisor for my company. I had an occasion to observe a driver for another company on a school activity trip who had clearly been drinking. Could I order that driver to take an alcohol test based on my training?

A5. No. You can only refer the drivers you supervise for testing; you can't refer another employer's drivers. There is nothing in the regulations, however, that prevents you from alerting that driver's employer to your suspicions. The employer can't send the driver for testing based on your report, but could take other appropriate action to prevent the driver from transporting students.

BLUE BIRD RECALL #R05JV

In accordance with the requirements of the National Traffic and Motor Vehicle Safety Act. Based on information provided by Specialty Manufacturing Company, Blue Bird Corporation has decided that a defect which relates to motor vehicle safety exists in the below listed school bus models equipped with Specialty Manufacturing 5-series electric stop arms.

Model	Model Year	Manufactured Dates
All American	2002-2006	02-08-02 through 03-18-05
Blue Bird "Vision"	2004-2006	03-24-03 through 03-23-05
Conventional	2002 –2006	02-11-02 through 03-03-05
Mini Bird	2002-2006	02-07-02 through 03-09-05
Micro Bird	2002-2006	02-19-02 through 03-15-05
TC/2000	2002-2004	02-21-02 through 03-29-03

In certain areas of the country during extremely cold weather and under certain conditions, the microswitches used internally to position the stop arm in the open or closed positions may temporarily malfunction, causing the stop arm to open and close to an improper position, or to not open at all. Also, it has been determined that the heater section of the switch pack may not be connected in the proper manner. Stop arms with the potential defective switch have a serial number between 480380 and 627609. Blue Bird is conducting a recall to correct this defect.

States where these temperatures and conditions can occur in the winter include:

Alaska, Kentucky, Nevada, Utah, Colorado, Maine, New Jersey, Vermont, Connecticut, Maryland, New York, Virginia, Delaware, Massachusetts, North Dakota, Washington, District of Columbia, Michigan, Ohio, West Virginia, Iowa, Minnesota, Oregon, Wisconsin, Idaho, Missouri, Pennsylvania, Wyoming, Illinois, Montana, Rhode Island, Indiana, Nebraska, South Dakota, Kansas, New Mexico and Tennessee

BLUE BIRD CORPORATION

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